

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY *[Signature]* DATE *9-30-82*

RDS ☐ or XDS ☐ EXT. DATE

TS AUTH. *[Signature]* REASON(S) *[Signature]*

ENDORSE EXISTING MEMORANDUMS ☐

DECLASSIFIED ☐ R. L. L. *[Signature]*

RELEASE DENIED ☐

EXEMPTIONS *[Signature]*

September 30 1953

301

In reply
L/E 611

My dear Senator Johnson:

The receipt is acknowledged of your communication of September 18, 1953, regarding the practice of law by Americans in Japan in which Mr. Smith refers to the practice of professions provisions of the Treaty of Friendship, Commerce and Navigation with Japan.

Although Article VIII, § 2, of the Treaty of Friendship, Commerce and Navigation, which was signed on April 2, 1953, provides that nationals of either party shall not be barred from practicing the professions within the territory of the other party merely by reason of their alienage, but shall be permitted to engage in professional activities therein upon compliance with the requirements regarding qualifications, residence and competence that are applicable to nationals of the other party, nevertheless the United States Senate, when approving the Treaty, attached a reservation to Article VIII, § 2, providing that the paragraph shall not extend to professions which, because they involve the performance of functions in a public capacity, are state-licensed and reserved by statute or constitution exclusively to citizens of the country. The matter of attaching this reservation had been the subject of extended consideration by the Senate Foreign Relations Committee. A copy of the Report of the Committee is attached; on pages 9-10 there is found a full discussion of the matter.

In making its own reservation, in a note acknowledging the United States reservation, the Japanese Government stated:

"Japan

The Honorable

Lyndon B. Johnson,

United States Senate



OS/CB

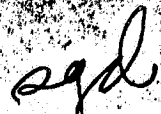
611 944/3-1853

"Japan reserves the right to impose prohibitions or restrictions on nationals of the United States of America with respect to practicing the professions referred to in Article VIII, paragraph 2, to the same extent as States, Territories or possessions of the United States of America, including the District of Columbia, to which such nationals belong impose prohibitions or restrictions on nationals of Japan with respect to practicing such professions."

You will note that, as a consequence, whether an American lawyer will have a treaty right to practice in Japan will depend, apart from matters of competence, residence, etc., on whether his home State in the United States forbids Japanese to practice merely on the basis of alienage. Of course, the fact that an American lawyer may not have a treaty right to practice in Japan does not necessarily mean that he will not be allowed to do so; that will depend on Japanese internal law. Many Americans are permitted to practice by a number of countries where no treaty rights exist.

The Treaty does not deal with the question of representation in American military courts-martial. It is trusted that, both as a consequence of the limited treaty rights given to American lawyers as set forth above, and the actual workings of Japanese law, there will continue to be available American civilian lawyers in Japan for representation of military personnel in court-martial proceedings. You will appreciate, however, that the reservation attached by the Senate in its approval of the Treaty necessarily cut down the Treaty coverage hitherto accorded to the practice of professions.

Sincerely yours,


Thruston B. Morton
Assistant Secretary

Enclosures:

Letter of August 24, 1953.

Senate Executive Report No. 5.

L:I/E:SDMetzger:blm

9/25/53

Cleared with I/FE - General Snow

NA - Mr. Fraleigh

CP - Mr. Walker

(SEE ATTACHED BLUE)

SEP 30 1953 P.M.

"Japan reserves the right to impose prohibitions or restrictions on nationals of the United States of America with respect to practicing the professions referred to in Article VIII, paragraph 2, to the same extent as States, Territories or possessions of the United States of America, including the District of Columbia, to which such nationals belong impose prohibitions or restrictions on nationals of Japan with respect to practicing such professions."

You will note that, as a consequence, whether an American lawyer will have a treaty right to practice in Japan will depend, apart from matters of competence, residence, etc., on whether his home State in the United States forbids Japanese to practice merely on the basis of alienage. Of course, the fact that an American lawyer may not have a treaty right to practice in Japan does not necessarily mean that he will not be allowed to do so; that will depend on Japanese internal law. Many Americans are permitted to practice by a number of countries where no treaty rights exist.

Sincerely yours

Thurston B. M.
Assistant Secretary

Enclosures:

Letter of August 24, 1953
Senate Executive Report No. 5.

S/S - CR
SEP 25 1953 PM

L:I/E:SDMetzger:blm 9/25/53

CP (Walker)
WV

Mr. (Mr. Fraleigh)
L/FE (General Snow)

United States Senate

Washington, D. C., September 18, 1953

Respectfully referred to

Department of State
Washington 25, D. C.

The enclosure is from Mr. Chas. J. Smith, Hqs., Central Command, Judge Advocate Section, APO 500, c/o Postmaster, San Francisco, California. It is forwarded for such comment as you may be disposed to make thereon.

LBJ

This letter (and enclosures, if any) are filed for DC/R records

204421

Lyndon B. Johnson,

U. S. S.

U. S. GOVERNMENT PRINTING OFFICE 10-48109-2

DC/R

Am 1-53

Rev.

U. S. S.

Concerning the pending
Friendship treaty that
reciprocity will be sought
by Japan with respect to
the practice of law medicine

ACTION
is assigned to



Reply drafted 9/25/53
DIVISION OF
DEPARTMENT OF STATE

SEP 21 1953
DEPARTMENT OF
BUREAU OF
EASTERN AFFAIRS

DEPARTMENT OF STATE
acknowledged letter
SEP 21 PM 12 06
611-944/9-1853

DC/R

Central
files

FILED
OCT 21 1953

611-944/9-1853

611-944/9-1853
A/53